

SECRET EYES ONLY

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1 JUL 1983

SUBJECT: Deferred Compensation for Employees in the Civil Service Retirement System in Consideration of Agency Imposed Limitation on Career Span

PREMISES

The CIA acknowledges that its policy to require the retirement at age 60 of employees in the Civil Service Retirement System represents a financial hardship in that it deprives the employee of the option to receive additional years of compensation and additional credit in the computation of his annuity.

The CIA retirement policy is necessitated solely by the special nature of the mission of the Agency. Success in this mission requires exceptional flexibility in the selection, development, and utilization of personnel. To achieve such flexibility requires that the career span of career employees be a managed factor in the Agency personnel staffing program.

Financial recompense to employees is warranted and has not been provided in the basic compensation plan of the Agency. Failure to provide such recompense would reflect adversely on the reputation of the Agency and impair its competitive position in the employment market.

It is not feasible to provide such recompense to employees throughout their careers by adjustment of the basic Agency compensation plan since it cannot be predetermined that all or which employees will serve a full career with the Agency.

PROPOSAL

Every employee under the Civil Service Retirement System will at age 58 receive a 10% increase in his basic compensation until he attains age 60. Such supplementary compensation is subject to retirement contributions and is taxable income when received.

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Payment of the supplementary compensation shall be made upon retirement and the sum payable shall be reduced by 10% of the current salary for each biweekly pay period the employee may continue in service in excess of 6 biweekly pay periods after attaining age 60. The accrual of supplementary compensation shall cease at the end of the pay period during which age 60 is attained.

Supplementary compensation accruing to employees shall be invested in U.S. Government securities and the interest thereon shall be paid to the employee upon retirement proportionate to the supplementary compensation payable to each individual.

DISCUSSION

There is no doubt that the Agency age 60 retirement policy as applied to employees under the Civil Service Retirement System deprives the individual of the options afforded other comparable Federal Employees to continue in service until age 70. Official reports of the Civil Service Retirement System reflect that most employees optionally retire about age 65.

Agency employees for the most part will be unable to obtain post-retirement employment that will provide them with unimpaired expendable income. Further, their annuities, excepting for the few who might transfer at age 60 to other Government agencies without a break in service, will inevitably be smaller.

The fact of financial loss cannot be questioned. The amount of loss any individual will suffer is not predeterminable or predictable.

No provision has been made in the Agency compensation plan for a limitation on the career span of employees. The Agency compensation plan is comparable to the General Schedule for Federal employees and the principles of the Classification Act are optionally adhered to by the Agency. It is, therefore, proper that supplementary compensation be paid to those employees adversely affected by the retirement age policy.

LEGAL BASIS

The Director of Central Intelligence has the legal authority to expend appropriated funds notwithstanding any other provisions of law for purposes necessary to carry out Agency functions including personal services. (CIA

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Act of 1949 as amended, Section 8). NOTE: This authority of the Director appears to have been reaffirmed and amplified in the Government Employees Salary Reform Act of 1964, Title III, Section 308, which reads:

Nothing contained in this section (which limits compensation to the highest rate of the General Schedule of the Classification Act of 1949 as amended) shall be construed to impair the authorities provided in the Central Intelligence Act of 1949 as amended."

This sentence has been interpreted by the CIA General Counsel as reaffirming the independent nature of the CIA authority under Public Law 81-110 (The CIA Act of 1949) to establish basic compensation rates.

SPECIAL COMMENT

Optionally, the rate of supplementary compensation could be set at other percentages or could be spread over a greater or lesser number of years. There would be two advantages to adjusting the formula to spread the accrual period over a greater number of years. The principal advantage would be to increase the period during which interest would be accruing. This additional interest could be used to either reduce the cost of the program to the Agency or to increase the total recompense to employees.

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